REMARKS

Claims 1, 9, 13, 21, 23, 29, 31 and 34 are amended. Claims 1-38 remain in the application for consideration. In view of the following remarks, Applicant respectfully requests withdrawal of the rejections and forwarding of the application onto issuance.

§102 and §103 Rejections

Claims 21-22 stand rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,496,802 to Van Zoest et al. (hereinafter "Van Zoest").

Claims 35-38 stand rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,269,122 to Prasad et al. (hereinafter "Prasad").

Claims 1-6, 9-11, 13, 16, 17, 23-26 and 31 stand rejected under 35 U.S.C. §103(a) as being obvious over U.S. Patent No. 5,655,144 to Milne et al. (hereinafter "Milne"), in view of U.S. Patent No. 6,442,758 to Jang et al. (hereinafter "Jang").

Claim 34 stands rejected under 35 U.S.C. §103(a) as being obvious over Van Zoest in view of Jang.

Claims 7-8, 12, 14-15, 27-28, and 32-33 stand rejected under 35 U.S.C. §103(a) as being obvious over Milne in view of Jang and Van Zoest.

Claims 18-20 stand rejected under 35 U.S.C. §103(a) as being obvious over Milne and Jang in further view of U.S. Patent No. 6,314,569 to Chernock et al. (hereinafter "Chernock").

Claims 29-30 stand rejected under 35 U.S.C. §103(a) as being obvious over Van Zoest and Jang, in further view of Chernock.

Applicant has made some clarifying amendments in the claims mentioned above. Applicant believes that these clarifying amendments more particularly describe subject matter that is patentably distinct from the references cited by the Office. Before discussing these clarifying amendments and the substance of the Office's rejections, a short discussion of Applicant's disclosure, as well as the Milne reference is provided to assist the Office in appreciating the patentable distinctions in Applicant's various claimed embodiments.

Applicant's Disclosure

Perhaps a good place to start to appreciate the various claimed embodiments in the present application is the "Background" section of the application. There, various problems associated with visualizations are described. Specifically, starting on page 1, line 12, the application states as follows:

> One problem associated with prior art media players is they all tend to display different types of media in different ways. For example, some media players are configured to provide a "*visualization*" when they play audio files. ***A visualization is typically a piece of software that "reacts" to the audio that is being played by providing a generally changing, often artistic visual display for the user to enjoy.***
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> ***
>
> [T]here are problems associated with prior art visualizations. As an example, consider the following. One of the things that makes visualizations enjoyable and interesting for users is the extent to which they "mirror" or follow the audio being played on the media player. Past visualization technology has led to visualizations that do not mirror or follow the audio as closely as one would like. This leads to things such as a lag in what the user sees after they have heard a particular piece of audio. It would be desirable to improve upon this media player feature.

Material in the specification that describes the visualization embodiments begins on page 15 at line 18. The references cited by the Office, by and large, do not deal with *visualizations* as that term is contemplated and used in the present application. The various clarifying amendments have been made in an attempt to more clearly draw out this distinction.

The Milne Reference

Milne describes methods and systems for providing synchronization of the *timing* of various multimedia events, including an audio event. In accordance with Milne's disclosure, clock objects are defined and are associated with an internal or external source of current time. The clock objects are able to be displayed on a display, but can be hidden once their linkages are defined. One or more multimedia objects representative of audio, visual or other multimedia events, including an audio object, are defined and linked to a particular clock object or clock objects. Then, a processor synchronizes the multimedia objects with the associated clock object or objects. Milne instructs that the various multimedia events are then performed in synchronization with their associated clocks.

Milne goes to great lengths to explain how its various clocks can be synchronized to, in turn, synchronize associated audio and video. For example, in column 9, starting at line 44, Milne describes how audio and video sequences can be synchronized, as shown in Fig. 11. In order to synchronize the audio and video sequences, Milne instructs that the clocks of two players would be synchronized as shown in Fig. 12. There, the audio player is viewed as the master clock and the video player is slaved to the audio player so that it always follows the audio player.

Thus, what Milne is concerned with is probably best thought of as synchronizing presentation times through techniques that establish relationships between clocks associated with different types of media. When viewed in the context of the claimed subject matter, it becomes apparent that the various claimed embodiments are really concerned with something that is quite different from Milne.

The Claimed Subject Matter Rejected Over Milne

Claim 1 has been amended and recites a system for synchronizing a visualization with audio samples comprising [amended language appears in bold italics]:

- one or more audio sources configured to provide audio samples that are to be rendered by a media player;
- an audio sample pre-processor communicatively linked with the one or more audio sources and configured to receive and pre-process audio samples before the samples are rendered, the pre-processing providing characterizing data associated with each sample, ***wherein the characterizing data is derived from the audio samples***; and
- one or more effects configured to receive the characterizing data and use the characterizing data to render a visualization that is synchronized with an audio sample that is being rendered by the media player.

In making out the rejection of this claim, the Office argues that Milne teaches:

(1) one or more audio sources configured to provide audio samples, and cites to column 16, lines 13-19, column 15, lines 48-60;

(2) one or more effects configured to receive the characterizing data and use the characterizing data to render a visualization

that is synchronized with an audio sample that is being rendered by the media player, and cites to column 17, lines 15-63, and Figs. 12 and 36; and

(3) an audio sample pre-processor communicatively linked with the one or more audio sources and configured to receive and pre-process audio samples before the samples are rendered to provide characterizing data associated with each sample, and cites to column 19, lines 1-11.

The Office notes that it considers Milne's clock rate to meet the "characterizing data" recited in this claim. Applicant has clarified this claim to recite that the characterizing data is derived from the audio samples. Support for this amendment can be found throughout Applicant's Specification. For example, starting on page 19 at line 21, the Specification describes one example in which the characterizing data can comprise frequency data as follows:

> Step 1000 receives multiple audio samples. These samples are typically received into an audio sample pipeline that is configured to provide the samples to a renderer that renders the audio samples so a user can listen to them. Step 1002 preprocesses the audio samples to provide characterizing data for each sample. Any suitable characterizing data can be provided. ***One desirable feature of the characterizing data is that it provides some measure from which a visualization can be rendered. In the above example, this measure was provided in the form of frequency data or wave data. The frequency data was specifically derived using a Fast Fourier Transform.*** It should be appreciated and understood that characterizing data other than that which is considered "frequency data", or that which is specifically derived using a Fast Fourier Transform, can be utilized. (emphasis added).

Applicant respectfully submits that the clock rate to which the Office refers is not *derived from* any of Milne's audio samples. Rather, Milne's clock rate appears to emanate from a software clock (as noted by the Office in column 6, line 63+). Milne further describes its software clock and defines its function in column

7, line 23 through column 8, line 25. A thorough reading of this section in the context of Milne's disclosure makes it readily clear that what the Office considers as Milne's "characteristic data" is not *derived from any audio samples* as that feature is understood in the context of Applicant's disclosure.

Given the clarifying amendment that has been made and Milne's failure to disclose or suggest this feature, the Office's reliance on Jang in making out the present rejection is not seen to add anything of significance. To this extent, Applicant maintains its position, as articulated in the previously-filed response, regarding the Office's failure to establish a *prima facie* case of obviousness based on the combination with Jang. Accordingly, for at least this reason, the Office has not established a *prima facie* case of obviousness and this claim is allowable.

Claims 2-8 depend from claim 1 and are allowable as depending from an allowable base claim. These claims are also allowable for their own recited features which, in combination with those recited in claim 1, are neither disclosed nor suggested in the references of record, either singly or in combination with one another. Given the allowability of these claims, the rejection of claims 7 and 8 over the combination with Van Zoest is not seen to add anything of significance.

Claim 9 has been amended and recites a media player comprising [added language appears in bold italics]:

- an audio sample pre-processor configured to receive and pre-process audio samples before the samples are rendered by the media player, the pre-processing providing frequency data associated with each sample, ***wherein the frequency data is derived from the audio samples;*** and
- one or more effects configured to receive the frequency data and use the frequency data to render a visualization that is synchronized with an audio sample that is being rendered by the media player.

In making out the rejection of this claim, the Office argues that Milne discloses "one or more effects" as recited and cites to column 17, lines 15-63. Further, the Office argues that Milne discloses an audio sample pre-processor as recited and cites to column 16, lines 13-39, column 15, lines 48-60, and column 19, lines 1-11. The Office then apparently relies on Jang in much the same way as it relied on Jang to make out the rejection of claim 1.

This claim has been clarified to recite that the recited frequency data is derived from the audio samples. Milne neither discloses nor suggests any such subject matter. As such, the Office has failed to establish a *prima facie* case of obviousness. Accordingly, this claim is allowable.

Claims 10-12 depend from claim 9 and are allowable as depending from an allowable base claim. These claims are also allowable for their own recited features which, in combination with those recited in claim 9, are neither disclosed nor suggested in the references of record, either singly or in combination with one another. Given the allowability of these claims, the rejection of claim 12 over the combination with Van Zoest is not seen to add anything of significance.

Claim 13 has been amended and recites a system for synchronizing a visualization with audio samples comprising [added language appears in bold italics]:

- an audio sample pre-processor configured to receive and preprocess audio samples before the samples are rendered by a renderer that comprises part of a media player, the audio sample preprocessor preprocessing the samples to provide characterizing data ***derived from*** each sample, the characterizing data comprising a timestamp associated with each audio sample, the timestamp being assigned in

accordance with when the audio sample is calculated to be rendered by the renderer;

- multiple data structures configured to hold the characterizing data, each data structure being associated with an audio sample;
- an audio rendering object configured to call the audio sample pre-processor to ascertain the characterizing data associated with an audio sample that is currently being rendered by the renderer;
- the audio sample pre-processor being configured to ascertain said characterizing data by querying the renderer for a time associated with the currently-rendered audio sample, and then using said time to identify a data structure having a timestamp that is nearest in value to said time; and
- one or more effects configured to receive characterizing data that is associated with the data structure having the timestamp that is nearest in value to said time, and use the characterizing data to render a visualization that is synchronized with the audio sample that is being rendered by the renderer.

In making out the rejection of this claim, the Office argues that Milne discloses:

(1) an audio rendering object as recited and cites to column 6, lines 21-33 and column 8, lines 32-39;
(2) one or more effects as recited and cites to column 17, lines 15-63;
(3) an audio sample pre-processor as recited and cites to column 9, lines 43-61, column 8, lines 40-65, column 16, lines 13-39, column 15, lines 48-60, and column 16, lines 40 to column 17, line 12.

As noted above, Milne neither discloses nor suggests a system in which characterizing data is ***derived from*** each audio sample, as used in the context of this claim and the Specification. Given this shortcoming, the combination with Jang is not seen to add anything of significance. As such, the Office has failed to establish a *prima facie* case of obviousness and this claim is allowable.

Claims 14-20 depend from claim 13 and are allowable as depending from an allowable base claim. These claims are also allowable for their own recited features which, in combination with those recited in claim 13, are neither disclosed nor suggested in the references of record, either singly or in combination with one another. Given the allowability of these claims, the rejections of claims 14-15 over the combination with Van Zoest, and of claims 18-20 over Chernok are not seen to add anything of significance.

Claim 23 has been amended and recites a method of providing a visualization comprising [added language appears in bold italics]:

- receiving multiple audio samples;
- pre-processing the audio samples before they are rendered by a media player renderer, the pre-processing ***deriving*** characterizing data ***from*** each sample;
- determining when an audio sample is being rendered by the media player renderer; and
- responsive to said determining, using the characterizing data that is associated with the audio sample that is being rendered to provide a visualization.

In making out the rejection of this claim, the Office argues that Milne discloses:

(1) receiving multiple audio samples and cites to column 16, lines 13-39 and column 15, lines 48-60;

(2) determining when an audio is being rendered as recited and cites to column 19, lines 1-11 and column 17, lines 15-63;

(3) responsive to determining, using the characterizing data that is associated with the audio sample that is being rendered to provide a visualization, and cites to column 17, lines 15-63; and

(4) preprocessing the audio samples before they are rendered by a media player to provide characterizing data, and cites to column 16, lines 13-39, and column 15, lines 48-60.

The Office then relies on Jang's teaching of a pre-processor and argues that it would be obvious to combine the two teachings to render the subject matter of this claim obvious. Applicant respectfully disagrees with the Office's interpretation and application of these references, particularly in view of the clarifying amendment that has been made. Specifically, Milne does not teach or suggest a method in which any pre-processing ***derives*** characterizing data ***from*** each audio sample. Accordingly, for at least this reason, the Office has failed to establish a *prima facie* case of obviousness and this claim is allowable.

Claims 24-28 depend from claim 23 and are allowable as depending from an allowable base claim. These claims are also allowable for their own recited features which, in combination with those recited in claim 23, are neither disclosed nor suggested in the references of record, either singly or in combination with one another. Given the allowability of these claims, the rejection of claims 27-28 over the combination with Van Zoest is not seen to add anything of significance.

Claim 29 has been amended and recites a method of providing a visualization comprising [added language appears in bold italics]:

- receiving multiple audio samples;
- pre-processing the audio samples before they are rendered by a media player renderer, the pre-processing comprising at least (1) using a Fast Fourier Transform to ***derive*** frequency data ***from*** the samples, and (2) associating a timestamp with each sample;
- maintaining frequency data and a timestamp for each sample in a data structure;

- determining when an audio sample is being rendered by a media player renderer by:
- ascertaining a time associated with a currently-rendered sample; and
- selecting a data structure having a timestamp that is nearest the time; and
- providing frequency data associated with the selected data structure to a component configured to use the frequency data to render the visualization.

In making out the rejection of this claim, the Office argues that this claim is rendered obvious in view of Milne, Jang and Van Zoest. Applicant respectfully disagrees, particularly in view of the clarifying amendment that has been made. More specifically, Milne neither discloses nor suggests, singly or in combination with any of the references of record, pre-processing audio samples before they are rendered by a media player renderer, where the pre-processing comprises at least (1) using a Fast Fourier Transform to ***derive*** frequency data ***from*** the samples, and (2) associating a timestamp with each sample, and then further using the frequency data as recited in this claim. Accordingly, for at least this reason, this claim is allowable.

Claim 30 depends from claim 29 and is allowable as depending from an allowable base claim. This claim is also allowable for its own recited features which, in combination with those recited in claim 29, are neither disclosed nor suggested in the references of record, either singly or in combination with one another.

Claim 31 has been amended and recites a method of providing a visualization comprising [added language appears in bold italics]:

- calling an audio sample pre-processor for characterizing data that ***has been derived from an*** associated audio sample that is currently being rendered by a media player renderer;
- calling the media player renderer for a time associated with a currently-rendered audio sample;
- using the time to select a data structure containing characterizing data associated with the currently-rendered audio sample; and
- providing the characterizing data to a component for rendering a visualization.

In making out the rejection of this claim, the Office argues that Milne discloses the various acts recited in this claim and cites to various sections of Milne in support therefore. The Office then relies on Jang in much the same way it relied on Jang to reject the above-discussed claims. Applicant respectfully disagrees with the Office's interpretation and application of Milne, particularly in view of the clarifying amendment that has been made. Specifically, Milne neither discloses nor suggests a method in which an audio sample pre-processor is called for characterizing data that ***has been derived from*** an associated audio sample. Accordingly, the Office has failed to establish a *prima facie* case of obviousness and this claim is allowable.

Claims 32-33 depend from claim 31 and are allowable as depending from an allowable base claim. These claims are also allowable for their own recited features which, in combination with those recited in claim 31, are neither disclosed nor suggested in the references of record, either singly or in combination with one another. Given the allowability of these claims, the rejection of claims 32-33 over the combination with Van Zoest is not seen to add anything of significance.

Claim 34 has been amended and recites one or more computer-readable media having computer-readable instructions thereon which, when executed by a computer, cause the computer to [added language appears in bold italics]:

- pre-process audio samples using a Fast Fourier Transform to ***derive from the audio samples*** frequency data, the audio samples being pre-processed before they are rendered by a media player renderer;
- query for frequency data that is associated with an audio sample that is currently being rendered by the media player renderer;
- query for a time associated with the currently-rendered audio sample;
- use the time to select a data structure containing frequency data associated with the currently-rendered audio sample; and
- provide the frequency data to a component that uses the frequency data for rendering a visualization.

In making out the rejection of this claim, the Office argues that the combination of Milne, Jang and Van Zoest render its subject matter obvious. Applicant respectfully disagrees, particularly in view of the clarifying amendment that has been made above. More specifically, none of the cited references disclose or suggest using a FFT to derive frequency data from audio samples, and then providing the derived frequency data to a component that uses the frequency data for rendering a visualization.

As Applicant noted in its previous response, Van Zoest discloses simply using frequency data in a verification process that is tangential, at best, to any rendering that takes place in its system. As none of the references disclose or suggest this subject matter, this claim is allowable.

The Claimed Subject Matter Rejected Over Van Zoest

Claims 21-22 stand rejected under 35 U.S.C. §102(e) as being anticipated by Van Zoest. Claim 21 has been amended and recites a system for processing audio samples comprising [added language appears in bold italics]:

- a timestamp module for assigning timestamps to audio samples that are to be rendered by a media player renderer;
- a spectrum analyzer for processing the audio samples to ***derive*** frequency data ***from*** the audio samples;
- multiple data structures each of which being associated with an audio sample, the data structures each containing timestamp data and frequency data for its associated audio sample; and
- the system being configured to use the timestamp data to ascertain a data structure associated with an audio sample that is currently being rendered by the media player renderer and provide the frequency data associated with that audio sample so that the frequency data can be used to render a visualization associated with that audio sample.

In making out the rejection of this claim, the Office argues that Van Zoest discloses:

(1) a timestamp module as recited, citing to column 4, lines 57-65;
(2) a spectrum analyzer as recited, citing to column 16, lines 9-43;
(3) multiple data structures as recited, citing to column 9, lines 24-65, column 4, lines 57-65, and column 16, lines 9-14; and
(4) a system configured to use the timestamp data to ascertain a data structure associated with an audio sample and provide the associated frequency data *so that the frequency data can be used to render a visualization associated with that audio sample*, citing to column 18, lines 55 through column 19, line 12.

Applicant respectfully disagrees with the Office's interpretation of this reference. Nonetheless, Applicant has clarified this claim as noted above.

Van Zoest discloses systems and methods for providing access to electronic works over a network. In Van Zoest's system, a user can request access to a particular work, such as songs, movies and albums. Before such a request is granted, the Van Zoest's system verifies that the user is authorized to access to the work. In one of Van Zoest's embodiments, the user verifies that they are authorized to access an electronic copy of the work by demonstrating that they possess a physical copy of the work. If a user's authorization is verified, the user may then be provided with access to an electronic copy of the work by such techniques as downloading or streaming.

With respect to the verification processing, Van Zoest describes one approach, which is cited by the Office as anticipating the spectrum analyzer recited in this claim, see, e.g. column 16, lines 9-43, which is reproduced in its entirety below, along with preceding text to provide context:

> In a preferred embodiment, such a comparison may make sure it is comparing like data with many well-known techniques, such as correlation and/or phase shifting. Specifically, the Verification Server 141 requests a portion of data from a client machine. The client machine collects this data from a physical work and sends this data to the Distributor Location 100. The Verification Server 141 receives the corresponding data collected from the physical work and determines whether this data can match up with the data of one or more stored electronic works. To reduce possible problems caused by mechanical error, the comparison may not match the data exactly as it is received. Instead, the Verification Server 141 may first identify whether any portion of the sample received from the first work potentially matches any portion of a stored electronic work or sample of a stored electronic work. Once it identifies the corresponding portions of data for maximum correlation, the Verification Server 141 may use correlation and/or phase shifting techniques to manipulate the data so that the

comparison is not thrown off by mechanical inaccuracies, such as the inaccuracy of the user's personal computer reading a CD.

For example, as shown in FIG. 5, the customer sample may need to be shifted forward or backward to perform a more accurate verification. The results of shifting one of the samples across time is shown in FIG. 6. Once the Verification Server 141 identifies the corresponding portions of the samples with maximum correlation, Verification Server 141 can size down the two waveforms until they contain the same portion of the track, as shown in FIGS. 6 and 7.

Once the most closely corresponding portions of the samples or works are identified, the verification process compares these possibly corresponding portions of the samples. In a preferred embodiment, the verification process runs a Fast Fourier Transform ("FFT") algorithm on each WAV samples to generate their respective power spectrums. The computer can then compare these two spectrums.

The Verification Server 141 performs the FFT. The FFT provide a frequency analysis of the data. The Verification Server 141 compares either or both channels of a stereo audio file and averages the results. When the data on the physical work matches the data on the electronic work perfectly, the difference between the audio files in the power spectrum can be 0.000. Conversely, if a CD is badly scratched at this specific location on the disk or the physical work is different from the electronic work, the two data may not compare too well. However, in a preferred embodiment, a scratch should only affect one or two samples of the 20 samples so that the system could still recognize the match. Additionally, as an alternative to FFT, the Verification Server 141 can perform direct waveform comparisons of the sampled and stored data.

If the received information identically or substantially matches only one stored CD, then the Verification Server 141 automatically stores a pointer to the formatted version of this title in the client's personal account. Otherwise, the Verification Server 141 asks for additional data (e.g., send the seven sectors of data found on track four at the tenth second of playing time). The system repeats this process until it has received an acceptable amount of data to verify or reject the CD in the user's machine or until it completes a predetermined set of requests. The number of requests for information by the Verification Server 141 can vary as necessary, as can the number of channels of data and sampling rate.

Thus, what is described in this excerpt is a verification process that seeks to verify that a user is authorized to receive a particular work. It does this by comparing aspects of a user's physical work, with aspects of an electronic work desired for receipt by a user.

The Office then argues that Van Zoest anticipates the subject matter of item (4) above and cites to column 18, line 55 through column 19, line 12 in support therefore. The entirety of this excerpt is provided below for the convenience of the Office:

> Once a work is loaded or accessible to a user, the user can access those works through a variety of graphical user interfaces and organization models, such as a juke box, alphabetically, by artist, by type of work, by category of work, by verification date, etc.. In a preferred embodiment, the works are organized as shown in FIGS. 8-19.
>
> The user may be provided with access to the electronic works identified in their account by downloading, streaming, email enclosure, or many other well-known techniques. Such access may be provided via the user's personal computer, cell phone, personal digital assistant, pager, car stereo, television or any media player. Before providing such access, the Content Delivery System 152 may attempt to identify what media player the user is accessing the works with. These characteristics may be automatically provided to the Distributor Location 100 as a header or some other information field included with the user data. The Distributor Location 100 could also request the information automatically from the user's device or the user. If the information is requested from the user, the user could identify their device by manually entering "cell phone" into a blank field or selecting their device from a list of available devices. In an alternative embodiment, it may also be able to identify the user's device to accommodate for geographically specific server farms.

The subject claim language that the Office argues is anticipated by this excerpt is as follows:

***

the system being configured to use the timestamp data to ascertain a data structure associated with an audio sample that is currently being rendered by the media player renderer and *provide the frequency data associated with that audio sample so that the frequency data can be used to render a visualization associated with that audio sample.*

Nowhere does Van Zoest disclose or suggest a system that provides frequency data that has been derived from an audio sample so that the frequency data *can be used to render a visualization* associated with that audio sample. Perhaps this is because of Van Zoest's divergent use of its frequency data. Specifically, Van Zoest uses its frequency data simply to effect a comparison of two particular works so that a user can be verified to receive a copy of the work. The presently-recited subject matter, on the other hand, incorporates the derived frequency data in the process of rendering a visualization that is associated with a particular audio sample.

Accordingly, for at least this reason, this claim is allowable.

Claim 22 depends from claim 21 and is allowable as depending from an allowable base claim. This claim is also allowable for its own recited features which, in combination with those recited in claim 21, are neither disclosed nor suggested in the references of record, either singly or in combination with one another.

The Claimed Subject Matter Rejected Over Prasad

Claim 35 was previously amended and recites a method of providing a visualization comprising [previously added language appears in bold italics]:

- defining a frame rate at which visualization frames ***of a visualization*** are to be rendered, ***the visualization frames being rendered from characterizing data that is computed from audio samples and which is used to create the visualization***;
- setting a threshold associated with an amount of time that is to be spent rendering a visualization frame;
- monitoring the time associated with rendering individual visualization frames;
- determining whether a visualization frame rendering time exceeds the threshold; and
- providing an effective frame rate for rendering visualization frames that is longer than the defined frame rate if the determined visualization frame rendering time exceeds the threshold.

In making out the rejection of this claim, the Office argues that the claim is rendered obvious in view of Prasad and Milne. More specifically, the Office argues that Prasad discloses all of the subject matter except for computing characterizing data from an audio sample. The Office then relies on Milne and argues that it discloses computing characterizing data from an audio sample which is then used create a visualization, citing to column 17, lines 15-39 in support thereof. Applicant disagrees with the Office's combination.

Prasad discloses methods and apparatus for synchronizing audio and video streams ***in a video conferencing system***. During a video conferencing session, audio and video streams are transmitted from one processing system to a remote processing system, where they are recorded. Because the video stream has a variable frame rate during transmission, extra frames are inserted into the recorded video stream in order to maintain a constant, predetermined frame rate. During playback, synchronization information from the audio stream is provided by an audio playback process to a video playback process in order to synchronize the start of playing the audio and video streams, as well as to repeatedly synchronize

the audio and video streams during playback. Thus, the context in which Prasad's methods and systems operate is entirely different from the context associated with the subject matter of claim 35.

The excerpt of Milne cited by the Office simply describes a graphic player implementation that includes graphic sequence objects. Applicant can find no disclosure that describes a method in which visualization frames are rendered from characterizing data that is *computed from audio samples and which is used to create the visualization*. If the Office disagrees, Applicant respectfully invites the Office to point to a specific disclosure of this material. As this subject matter is neither disclosed nor suggested by these references, this claim is allowable.

Claims 36 and 37 depend from claim 35 and are allowable as depending from an allowable base claim. These claims are also allowable for their own recited features which, in combination with those recited in claim 35, are neither disclosed nor suggested in the references of record, either singly or in combination with one another.

Claim 38 was previously amended and recites one or more computer-readable media having computer-readable instructions thereon which, when executed by a computer, cause the computer to [previously added language appears in bold italics]:

- set a threshold associated with an amount of time that is to be spent rendering a visualization frame for a given frame rate, ***said visualization frame being associated with a visualization that is rendered using characterizing data computed from audio samples, which characterizing data is used to create the visualization***;
- monitor the time associated with rendering individual visualization frames;

- determine whether a visualization frame rendering time exceeds the threshold; and
- provide an effective frame rate for rendering the visualization that is longer than the defined frame rate if the determined visualization frame rendering time exceeds the threshold.

In making out the rejection of this claim, the Office argues that the claim is rendered obvious over the combination of Prasad and Milne. Applicant respectfully disagrees and traverses the Office's rejection.

As noted above, Prasad discloses methods and apparatus for synchronizing audio and video streams ***in a video conferencing system***. Thus, the context in which Prasad's methods and systems are employed is quite different from the context in which the subject matter of claim 38 is employed. In an attempt to clarify the context of the presently-claimed subject matter, this claim was previously amended to recite that the visualization frame is associated with a ***visualization*** that is ***rendered using characterizing data computed from audio samples***, and that the characterizing data is used to ***create*** the visualization. The Office now relies on Milne and argues that it discloses computing characterizing data from audio samples and using the computed data to create a visualization. Applicant respectfully submits that this is simply not the case. If the Office disagrees, Applicant respectfully invites the Office to point to a specific section of Milne and point out where this reference discloses *computing* characterizing data *from* audio samples, and using the characterizing data to create a visualization.

As neither of these references disclose or suggest any such subject matter, this claim is allowable.

Conclusion

Applicant has made a sincere attempt to clarify the subject matter of the claims. Applicant sincerely wishes to advance prosecution in this matter. In the event the Office's next anticipated action is to be anything other than issuance of a Notice of Allowability, Applicant respectfully requests a telephone call for the purpose of scheduling an interview.

Respectfully Submitted,

Dated: 4/23/04

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